






THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

TO: The Honorable the Members of the Board of Regents

FROM: Ken Wagner 

SUBJECT: Proposed amendment of §100.5(g)(1)(i) of the Commissioner's Regulations relating to the transition to the Common Core Regents Examination in English Language Arts

DATE: January 5, 2015

AUTHORIZATION(S):  

SUMMARY

Item for Decision (Consent Agenda)

Should the Board of Regents amend §100.5(g)(1)(i) of the Commissioner's Regulations to provide additional flexibility in the transition to the Common Core-aligned Regents Examination in English Language Arts by allowing, for a limited time and at the discretion of the local school district, students receiving ELA (Common Core) instruction to take the Regents Comprehensive Examination in English Language Arts aligned to the 2005 Learning Standards in addition to the Regents Examination in English Language Arts (Common Core) and meet the requirement for graduation by passing either examination? This flexibility would be extended to include three additional test administration periods: January, June, and August 2015.

Reason(s) for Consideration

Implementation of Policy

Proposed Handling

The proposed amendment will be presented to the Full Board for adoption as a permanent rule at the January 2015 Regents meeting. In addition, a second emergency adoption is also necessary to ensure that the emergency rule remains continuously in

effect until the effect date of its adoption as a permanent rule. A statement of the facts and circumstances which necessitate emergency action is attached.

Procedural History

The proposed amendment was adopted as an emergency rule at the October 2014 Regents meeting. A Notice of Emergency Adoption and Proposed Rule Making was published in the State Register on November 5, 2014. A copy of the proposed amendment and an Assessment of Public Comment are attached. Supporting materials are available upon request from the Secretary to the Board of Regents.

Background Information

At their July 2013 meeting, the Board of Regents adopted by emergency action, effective July 30, 2013, a new Commissioner's Regulation §100.5(g) to require students to meet diploma requirements by passing Regents Examinations in English Language Arts and mathematics that are aligned to the New York State P-12 Common Core Learning Standards. Section 100.5(g) was permanently adopted at the October 2013 Regents meeting. Included in the new regulation is a provision in §100.5(g)(1)(i)(b)(2) that allows, at local discretion and for the June 2014 and August 2014 administrations only, students enrolled in Common Core English courses to take the Regents Comprehensive Examination in English (2005 Learning Standards) in addition to the Regents Examination in ELA (Common Core) and meet the English requirement for graduation by passing either examination. In November 2013, the Regents adopted an emergency amendment to that regulation to include the January 2014 administration as well.

In response to feedback from the field, the proposed amendment would extend that flexibility to the January, June, and August 2015 administrations.

Recommendation

Staff recommends that the Regents take the following action:

VOTED: That subparagraph (i) of paragraph (1) of subdivision (g) of section 100.5 of the Commissioner's Regulations be amended, effective January 28, 2015; and it is further

VOTED: That subparagraph (i) of paragraph (1) of subdivision (g) of section 100.5 of the Commissioner's Regulations be amended, effective January 19, 2015, as an emergency measure upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare to ensure that the emergency rule adopted at the October 2014 Regents meeting remains continuously in effect until the effective date of its adoption as a permanent rule.

Timetable for Implementation

The proposed amendment was adopted at the October 2014 Regents meeting as an emergency rule, effective October 21, 2014, and will expire on January 18, 2015. If adopted at the January 2015 Regents meeting, the emergency rule will take effect on January 19, 2015 and the permanent rule will take effect on January 28, 2015.

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 208, 209, 305, 308, 309 and 3204

Subparagraph (i) of paragraph (1) of subdivision (g) of section 100.5 of the Regulations of the Commissioner is amended, effective January 28, 2015, as follows:

(i) English.

(a) Students who first enter grade 9 in September 2013 and thereafter shall meet the English requirement for graduation in clause (a)(5)(i)(a) of this section by passing the Regents examination in English language arts (common core) or an approved alternative pursuant to section 100.2(f) of this Part.

(b) Students who first enter grade 9 prior to September 2013 shall meet the English requirement for graduation in clause (a)(5)(i)(a) of this section by:

(1) successfully completing a course in English language arts (common core) and passing the Regents examination in English language arts (common core) or an approved alternative pursuant to section 100.2(f) of this Part; or

(2) successfully completing a course in English aligned to the 2005 Learning Standards and passing the Regents comprehensive examination in English or an approved alternative pursuant to section 100.2(f) of this Part; provided that for the January 2014, June 2014 [and], August 2014, January 2015, June 2015, and August 2015 administrations only, students enrolled in English language arts (common core) courses may, at the discretion of the applicable school district, take the Regents comprehensive examination in English in addition to the Regents examination in English language arts (common core), and may meet such English requirement by passing either examination.

(c) . . .

8 NYCRR §§100.5(g)(1)(i)

STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE EMERGENCY ACTION

The proposed amendment is necessary to implement Regents policy to provide, at the local school district's discretion, additional opportunities for students enrolled in Common Core English Language Arts courses to meet diploma requirements by passing either the Regents Comprehensive Examination in English in addition to the Regents Examination in English Language Arts (Common Core) at the January 2015, June 2015, and August 2015 examination administrations.

The proposed amendment was adopted at the October 20-21, 2014 Regents meeting as an emergency rule, effective October 21, 2014, and has now been adopted as a permanent rule at the January 12-13, 2015 Regents meeting. Pursuant to SAPA section 203(1), the earliest effective date of the permanent rule is January 28, 2015, the date a Notice of Adoption is published in the State Register. However the emergency rule adopted at the October 2014 Regents meeting will expire on January 18, 2015. A lapse in the rule's effect date may disrupt opportunities for students enrolled in Common Core English Language Arts courses to meet diploma requirements by passing either the Regents Comprehensive Examination in English in addition to the Regents Examination in English Language Arts (Common Core) at the January 2015 examination administration.

Emergency action is necessary for the preservation of the general welfare in to ensure that the emergency rule adopted at the October 2014 Regents meeting remains continuously in effect until the effective date of the rule's adoption as a permanent rule.

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8 NYCRR §100.5(g)(1)(i)

ASSESSMENT OF PUBLIC COMMENT

Since publication of a Notice of Emergency Adoption and Proposed Rule Making in the State Register on November 5, 2014, the State Education Department received one comment on the proposed rule. The comment expressed support for the proposed rule and stated that students and educators alike need options before using the Common Core Learning Standards English Language Arts) Assessment as it is the only method of evaluation for both students and educators. No response is necessary as the comment is supportive.